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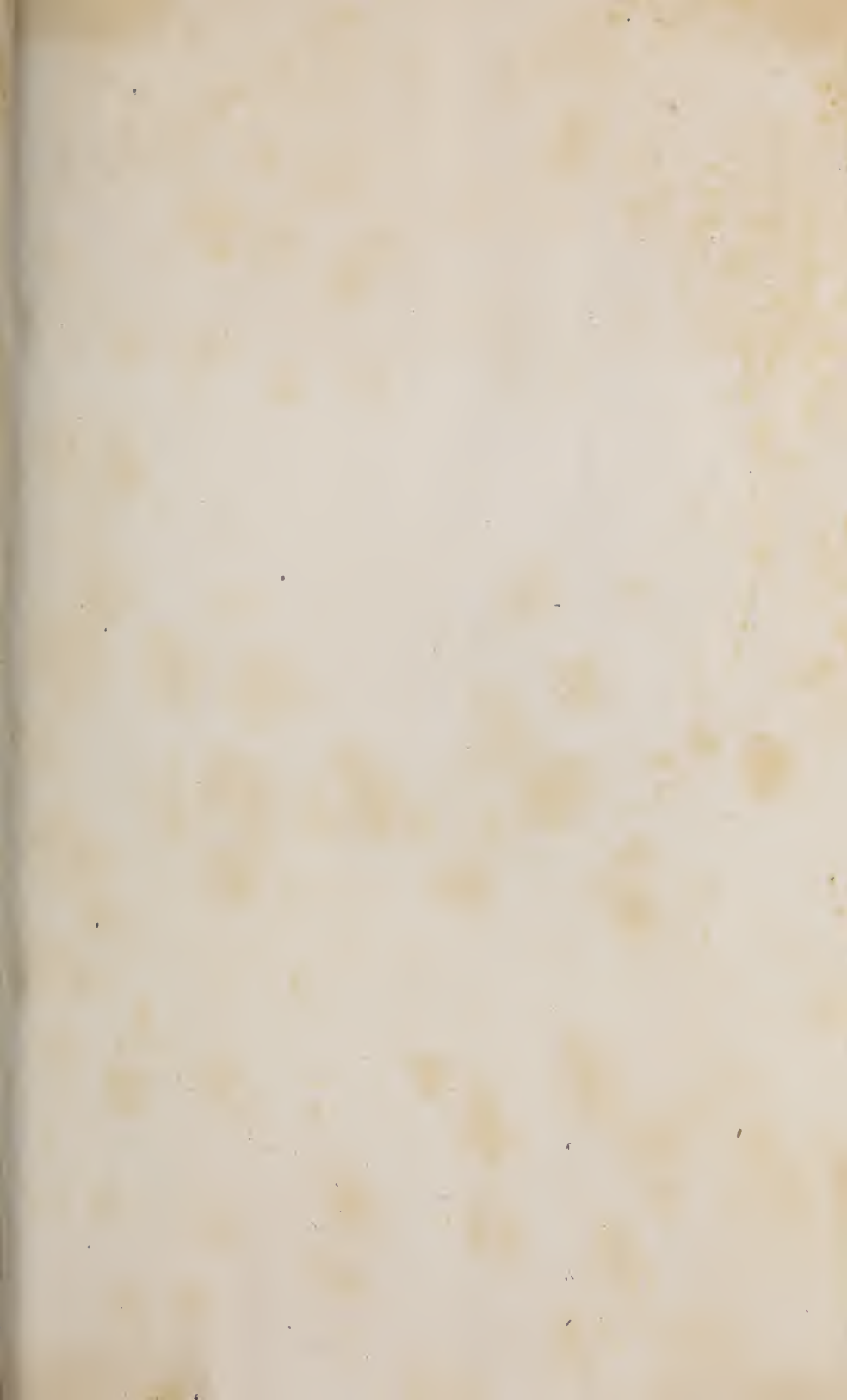
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THE

Banner of the Covenant.

MARCH, 1853.

Anti-Slavery.

SPEECH OF HON. CHARLES SUMNER, OF MASSACHUSETTS, ON HIS MOTION TO REPEAL THE FUGITIVE SLAVE BILL, IN THE SENATE OF THE UNITED STATES, AUGUST 26, 1852.

[Concluded from page 48.]

At a later day, the various clauses and articles severally adopted from time to time in Convention were referred to a committee of revision and arrangement, that they might be reduced to form as a connected whole. *Here another change was made.* The clause relating to public records, with the power attached, was taken from its original place at the bottom of the clauses of compact, and promoted to stand first in the article, as a distinct section, while the other clauses of compact, concerning citizens, fugitives from justice and fugitives from labour, each and all without any power attached, by a natural association compose but a single section, thus:

“ARTICLE IV.

“SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. *And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.*

“SECTION 2. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

“A person charged in any State with treason, felony or other crime, who shall flee from justice, and be found in another State, shall, on demand of the Executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

“No person held to service or labour in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.

“SECTION 3. New States *may be admitted by the Congress* into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, *as well as of the Congress.*

“*The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State.*

“SECTION 4. The *United States shall guaranty* to every State in this Union a republican form of government, and *shall protect* each of them against invasion, and on application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.”

Here is the whole article. It will be observed that the third section immediately following the triad section of compacts, contains two specific powers, one with regard to new States, and the other with regard to the Public Treasury. These are naturally grouped together, while the fourth section of this same article, which is distinct in its character, is placed by itself. In the ab-

sence of all specific information, reason alone can determine why this arrangement was made. But the conclusion is obvious, that, in the view of the Committee and of the Convention, each of these sections differs from the others. The first contains a compact with a grant of power. The second contains provisions, all of which are simple compacts, and two of which were confessedly simple compacts in the old Articles of Confederation, from which, unchanged in letter or spirit, they were borrowed. The third is a two-fold grant of power to Congress, without any compact. The fourth is neither power nor compact merely, nor both united, but a solemn injunction upon the National Government to perform an important duty.

The framers of the Constitution were wise and careful men, who had a reason for what they did, and who understood the language which they employed. They did not, after discussion, incorporate into their work any superfluous provision; nor did they without design adopt the peculiar arrangement in which it appears. In adding to the record compact the express grant of power, they testified not only their desire for such power in Congress, but their conviction that, without an express grant, it would not exist. But if an express grant was necessary in this case, it was equally necessary in all the other cases. *Expressum facit cessare tacitum*. Especially, in view of its odious character, was it necessary in the case of fugitives from labour. In abstaining from any such grant, and then in grouping the bare compact with other similar compacts, separate from every grant of power, they have most significantly testified their purpose. They not only decline all addition of any such power to the compact, but to render misapprehension impossible, to make assurance doubly sure, to exclude any contrary conclusion, they punctiliously arrange the clauses, on the principle of *nascitur a sociis*, so as to distinguish all the grants of power, but especially to make the new grant of power, in the case of public records, stand forth in the front by itself, severed from the mere naked compacts with which it was originally associated.

Thus the records of the Convention show that the founders understood the necessity of *powers* in certain cases, and, on consideration, most jealously granted them. A closing example will strengthen the argument. Congress is expressly empowered "*to establish a uniform rule of Naturalization, and uniform laws on the subject of Bankruptcies, throughout the United States.*" Without this provision these two subjects would have been within the control of the States, the Nation having no power *to establish a uniform rule* thereupon. Now, instead of the existing compact on fugitives from labour, it would have been easy, had any such desire prevailed, to add this case to the clause on Naturalization and Bankruptcies, and to empower Congress to ESTABLISH A UNIFORM RULE FOR THE SURRENDER OF FUGITIVES FROM LABOUR THROUGHOUT THE UNITED STATES. Then, of course, whenever Congress undertook to exercise the power, all State control of the subject would have been superseded. The National Government would have been constituted, like Nimrod, the mighty hunter, with power to gather the huntsmen, to halloo the pack, and to direct the chase of men, ranging at will, without regard to boundaries or jurisdictions, throughout all the States. But no person in the Convention, not one of the reckless partisans of slavery, was so audacious as to make this proposition. Had it been distinctly made, it would have been distinctly denied.

The fact that the provision on this subject was adopted unanimously, while showing the little importance attached to it *in the shape it finally assumed*, testifies also that it could not have been regarded as a source of National power over Slavery. It will be remembered, that, among the members of the Convention, were Gouverneur Morris, who had said, that he "*never* would concur in upholding domestic slavery;" Elbridge Gerry, who thought "*we ought to be careful not to give any sanction to it*;" Roger Sherman, who was OPPOSED to any clause "*acknowledging men to be property*;" and Mr. Madi-

son, who "thought it *wrong* to admit in the Constitution the idea that there could be property in man." In the face of these unequivocal statements, it is absurd to suppose that they consented *unanimously* to any provision by which the National Government, the work of their hands, dedicated to Freedom, could be made the most offensive instrument of slavery.

Thus much for the evidence from the history of the Convention. But the *true principles of our Political System* are in harmony with this conclusion of history; and here let me say a word of State Rights.

It was the purpose of our fathers to create a National Government and to endow it with adequate powers. They had known the perils of imbecility, discord, and confusion, during the uncertain days of the Confederation, and desired a Government which should be a true bond of Union and an efficient organ of the national interests at home and abroad. But while fashioning this agency, they fully recognised the Governments of the States. To the nation were delegated high powers, essential to the national interests, but specific in character and limited in number. To the States and to the people were reserved the powers, general in character and unlimited in number, not delegated to the Nation or prohibited to the States.

The integrity of our Political System depends upon harmony in the operations of the Nation and of the States. While the Nation within its wide orbit is supreme, the States move with equal supremacy in their own. But from the necessity of the case the supremacy of each in its proper place excludes the other. The Nation cannot exercise rights reserved to the States; nor can the States interfere with the powers of the Nation. Any such action on either side is a usurpation. These principles were distinctly declared by Mr. Jefferson, in 1798, in words often adopted since; and which must find acceptance from all parties:

"That the several States composing the United States of America are not united upon the principle of unlimited submission to the General Government; but that by compact, under the style and title of the Constitution of the United States and of the amendments thereto, they constituted a General Government for special purposes, *delegated to that government certain definite powers*, reserving, each State to itself, the residuary mass of right to their own self-government, and that *wheresoever the General Government assumes undelegated powers, its acts are unauthorized, void, and of no force.*"

But I have already amply shown to-day that Slavery is in no respect national—that it is not within the sphere of national activity—that it has no "positive" support in the Constitution, and that any interpretation thereof inconsistent with this principle would be abhorrent to the sentiments of its founders. Slavery is a local institution, peculiar to the States and under the guardianship of State Rights. It is impossible, without violence, at once to the spirit and to the letter of the Constitution, to attribute to Congress any power to legislate, either for its abolition in the States or its support any where. *Non-Intervention* is the rule prescribed to the Nation. Regarding the question only in its more general aspects, and putting aside, for the moment, the perfect evidence from the records of the Convention, it is palpable that there is no *national fountain* out of which the existing Slave Act can be derived.

But this Act is not only an unwarrantable assumption of power by the Nation; it is also an infraction of rights reserved to the States. Every where within their borders the States are the peculiar guardians of *personal liberty*. By Jury and Habeas Corpus to save the citizen harmless against all assault is among their duties and rights. To his State the citizen when oppressed may appeal, nor should he find that appeal denied. But this Act despoils him of his rights and despoils his State of all power to protect him. It subjects him to the wretched chances of false oaths, forged papers, and facile commissioners, and takes from him every safeguard. Now, if the slaveholder has a right to be secure *at home* in the enjoyment of *Slavery*, so also has the freeman of the North—and every person there is presumed to be a freeman—

an equal right to be secure *at home* in the enjoyment of *Freedom*. The same principle of State Rights by which Slavery is protected in the Slave States throws its impenetrable shield over Freedom in the Free States. And here, let me say, is the only security for Slavery in the Slave States as for Freedom in the Free States. In the present fatal overthrow of State Rights you teach a lesson which may return to plague the teacher. Compelling the National Government to stretch its Briarean arms into the Free States, for the sake of Slavery, you show openly how it may stretch these same hundred giant arms into the Slave States for the sake of Freedom. This lesson was not taught by our fathers.

And here I end this branch of the question. The true principles of our Political System, the history of the National Convention, the natural interpretation of the Convention, all teach that this Act is a usurpation by Congress of powers that do not belong to it, and an infraction of rights secured to the States. It is a sword, whose handle is at the National Capital, and whose point is every where in the States. A weapon so terrible to Personal Liberty the Nation has no power to grasp.

(2.) *And now of the denial of Trial by Jury.* Admitting, for the moment, that Congress is intrusted with power over this subject, which truth disowns, still the Act is again radically unconstitutional from its denial of Trial by Jury in a question of Personal Liberty and a suit at common law. Since on the one side there is a claim of property, and on the other of liberty, both property and liberty are involved in the issue. To this claim on either side is attached Trial by Jury.

To me, sir, regarding this matter in the light of the common law and in the blaze of free institutions, it has always seemed impossible to arrive at any other conclusion. If the language of the Constitution were open to doubt, which it is not, still all the presumptions of law, all the leanings for Freedom, all the suggestions of justice, plead angel-tongued for this right. Nobody doubts that Congress, if it legislates on this matter, *may* allow a Trial by Jury. But if it *may*, so overwhelming is the claim of justice, it *must*. Beyond this, however, the question is determined by the precise letter of the Constitution.

Several expressions in the provision for the surrender of fugitives from labour show the essential character of the proceedings. In the first place, the person must be, not merely *charged*, as in the case of fugitives from justice, but actually *held to labour* in the State from which he escaped. In the second place, he must be "delivered up on claim of the party to whom such labour is *due*." These two facts, that he was *held* to labour, and that this labour was *due* to his claimant, are directly placed in issue, and must be proved. Two necessary incidents of the delivery may also be observed. First, it must be made in the State where the fugitive is found; and, secondly, it restores to the claimant his complete control over the person of the fugitive. From these circumstances it is evident that the proceedings cannot be regarded, in any just sense, as preliminary, or ancillary to some future formal trial, but as complete in themselves, final and conclusive.

And these proceedings determine on the one side the question of property, and on the other the sacred question of Personal Liberty in its most transcendent form; not merely Liberty for a day or a year, but for life, and the Liberty of generations that shall come after, so long as Slavery endures. To these questions, the Constitution, by two specific provisions, attaches the Trial by Jury. One of these is the familiar clause, already adduced: "No person shall be deprived of life, liberty, or property, *without due process of law*;" that is, without due proceedings at law, with Trial by Jury. Not stopping to dwell on this, I press at once to the other provision, which is still more express: "In suits at common law, where the value in controversy shall exceed twenty dollars, the right of Trial by Jury shall be preserved." This

clause, which was not in the original Constitution, was suggested by the very spirit of Freedom. At the close of the National Convention, Elbridge Gerry refused to sign the Constitution, because, among other things, it established "a tribunal *without juries*, a Star Chamber as to civil cases." Many united in his opposition, and on the recommendation of the first Congress this additional safeguard was adopted as an amendment.

Now, regarding the question as one of property, or of Personal Liberty, in either alternative the Trial by Jury is secured. For this position authority is ample. In the debate on the Fugitive Slave Bill of 1817-'18, a Senator from South Carolina, Mr. Smith, anxious for the asserted right of property, objected, on this very floor, to a reference of the question, under the writ of Habeas Corpus, to a judge without a jury. Speaking solely for property, these were his words:

"This would give the Judge the sole power of deciding *the right of property the master claims in his slaves, instead of trying that right by a jury, as prescribed by the Constitution*. He would be judge of matters of law and matters of fact, clothed with all the powers of a court. Such a principle is unknown in your system of jurisprudence. *Your Constitution has forbid it*. It preserves the right of Trial by Jury in all cases where the value in controversy exceeds twenty dollars."—(Debates in *National Intelligencer*, June 15, 1818.)

But this provision has been repeatedly discussed by the Supreme Court, so that its meaning is not open to doubt. Three conditions are necessary. *First*, the proceedings must be "a suit;" *secondly*, "at common law;" and *thirdly*, "where the value in controversy exceeds twenty dollars." In every such case "the right of Trial by Jury *shall be preserved*." The decisions of the Supreme Court expressly touch each of these points.

First. In the case of *Cohens vs. Virginia*, (6 Wheaton, 407,) the Court say: "What is a suit? We understand it to be the prosecution of some claim, demand, or request." Of course, then, the "claim" for a fugitive must be "a suit."

Secondly. In the case of *Parsons vs. Bedford*, (3 Peters, 456,) while considering this very clause, the Court say: "By *common law* is meant not merely suits which the common law recognised among its old and settled proceedings, but suits in which *legal rights* were to be ascertained and determined. In a just sense, the Amendment may well be construed to embrace all suits which are not of Equity or Admiralty jurisdiction, *whatever may be the peculiar form which they may assume to settle legal rights*." Now, since the claim for a fugitive is not a suit in Equity or Admiralty, but a suit to settle what are called legal rights, it must, of course, be "a suit at common law."

Thirdly. In the case of *Lee vs. Lee*, (8 Peters, 44,) on a question whether "the value in controversy" was "one thousand dollars and upwards," it was objected that the appellants, who were petitioners for Freedom, were not of the value of one thousand dollars. But the Court said: "The matter in dispute is the Freedom of the petitioners. *This is not susceptible of pecuniary valuation*. No doubt is entertained of the jurisdiction of the Court." Of course, then, since liberty is above price, the claim to any fugitive always and necessarily presumes that "the value in controversy exceeds twenty dollars."

By these successive steps, sustained by decisions of the highest tribunal, it appears, as in a diagram, that the right of Trial by Jury is secured to the fugitive from labour.

This conclusion needs no further authority; but it may receive curious illustration from the ancient records of the common law, so familiar and dear to the framers of the Constitution. It is said by Mr. Burke, in his magnificent speech on Conciliation with America, that "nearly as many of Blackstone's Commentaries were sold in America as in England," carrying thither the knowledge of those vital principles of Freedom which were the boast of the British Constitution. Imbued by these, the earliest Continental Congress,

in 1774, declared, "that the respective Colonies are entitled to the common law of England, and especially to the great and inestimable privilege of being tried by their peers of the vicinage according to the course of that law." Thus, amidst the troubles which heralded the Revolution, the common law was claimed by our fathers as a birthright.

Now although the common law may not be approached as a source of jurisdiction under the National Constitution—and on this point I do not dwell—it is clear that it may be employed in determining the meaning of technical terms in the Constitution borrowed from this law. This, indeed, is expressly sanctioned by Mr. Madison, in his celebrated report of 1799, while restraining the extent to which the common law may be employed. Thus by this law we learn the nature of *Trial by Jury*, which, though secured, is not described by the Constitution; also of *Bills of Attainder*, the *Writ of Habeas Corpus*, and *Impeachment*, all technical terms of the Constitution borrowed from the common law. By this law, and its associate Chancery, we learn what are cases in law and equity to which the judicial power of the United States is extended. These instances I adduce merely by way of example. Of course also in the same way we learn what in reality are suits at common law.

Now, on principle and authority, a claim for the delivery of a fugitive slave is a suit at common law, and is embraced naturally and necessarily in this class of judicial proceedings. This proposition can be placed beyond question. And here, especially, let me ask the attention of all learned in the law. On this point, as on every other in this argument, I challenge inquiry and answer.

History painfully records that during the early days of the common law, and down even to a late period, a system of slavery existed in England, known under the name of *villainage*. The slave was generally called a *villain*, though, in the original Latin forms of judicial proceedings, *nativus*, implying slavery by birth. The incidents of this condition have been minutely described, and also the mutual remedies of master and slave, all of which were regulated by the common law. Slaves sometimes then, as now, escaped from their masters. The claim for them after such escape was prosecuted by a "suit at common law," to which, as to every suit at common law, the Trial by Jury was necessarily attached. Blackstone, in his Commentaries, (Vol. II. p. 93,) in words which must have been known to all the lawyers of the Convention, said of *villains*: "They could not leave their lord without his permission, but if they ran away, or were purloined from him, might be claimed and recovered by action, like beasts or other cattle." This very word "action" of itself implies "a suit at common law" with Trial by Jury.

From other sources we learn precisely what the action was. That great expounder of the ancient law, Mr. Hargrave, says, "The Year Books and Books of Entries are full of the forms used in pleading a title to villains." Though no longer of practical value in England, they remain as monuments of jurisprudence, and as mementoes of a barbarous institution. He thus describes the remedy of the master at common law:

"The lord's remedy for a fugitive villain was, either by seizure or by suing out a writ of *Nativo Habendo*, or *Neifty*, as it is sometimes called. If the lord seized, the villain's most effectual mode of recovering liberty was by a writ of *Homine Replegiando*, which had great advantage over the writ of *Habeas Corpus*. In the *Habeas Corpus* the return cannot be contested by pleading against the truth of it, and consequently on a *Habeas Corpus* the question of liberty cannot go to a jury for trial. But in the *Homine Replegiando* it was otherwise. The plaintiff, on the defendant's pleading villainage, had the same opportunity of contesting it, as when impleaded by the lord in a *Nativo Habendo*. If the lord sued out a *Nativo Habendo*, and the villainage was denied, in which case the sheriff could not seize the villain, the lord was then to enter his plaint in the county court, and as the sheriff was not allowed to try the question of villainage in his court, the lord could not have any benefit from the writ, without removing the cause by the writ of *Pone* into the King's Bench or Common Pleas."—(20 Howell's State Trials, 38, note.)

The authority of Mr. Hargrave is sufficient. But I desire to place this matter beyond all cavil. From the Digest of Lord Chief Baron Comyns, which, at the adoption of the Constitution, was one of the classics of our jurisprudence I derive another description of the remedy of the master:

"If the lord claims an inheritance in his villain, *who flies from his lord against his will*, and lives in a place out of the manor, to which he is regardant, the lord shall have a *Nativo Habendo*. And upon such writ, directed to the sheriff, he may seize him who does not deny himself to be a villain. But if the defendant say that he is a Free Man, the sheriff cannot seize him, but the lord must remove the writ by *Pone* before the Justices in Eyre or in C. B. *where he must count upon it*."—(Comyns' Digest—Villainage, C. 1.)

An early writer of peculiar authority, Fitzherbert, in his *Natura Brevium*, on the writs of the common law, thus describes these proceedings:

"The writ *de Nativo Habendo* lieth for the lord who claimeth inheritance in any villain, *when his villain is run from him*, and is remaining within any place out of the manor unto which he is regardant, or when he departeth from his lord against the lord's will; and the writ shall be directed to the sheriff. And the sheriff may seize the villain, and deliver him unto his lord, if the villain confess unto the sheriff that he is his villain; but if the villain say to the sheriff that he is frank, then it seemeth that the sheriff ought not to seize him; as it is in a replevin, if the defendant claim property, the sheriff cannot replevy the cattle, but the party ought to sue a writ *de Proprietate Probanda*; and so if the villain say that he is a freeman, &c., then the sheriff ought not to seize him, but then the lord ought to sue a *Pone* to remove the plea before the justices of the Common Pleas, or before the justices in eyre. But if the villain purchase a writ *de Libertate Probanda* before the lord hath sued the *Pone* to remove the plea before the justices, then that writ of *Libertate Probanda* is a *Supersedas* unto the lord, that he proceed not upon the writ of *Nativo Habendo* till the eyre of the justices, and that the lord ought not to seize the villain in the mean time."—(Vol. I. p. 76.)

These authorities are not merely applicable to the general question of freedom; but they distinctly contemplate the case of *fugitive slaves*, and the "suits at common law" for their rendition. Blackstone speaks of villains who "ran away;" Hargrave of "fugitive villains;" Comyns of a villain "who flies from his lord against his will;" and Fitzherbert of the proceedings of the lord "when his villain is run from him." The forms, writs, counts, pleadings, and judgments, in these suits, are all preserved among the precedents of the common law. The writs are known as original writs, which the party on either side, at the proper stage, could sue out of right without showing cause. The writ of *Libertate Probanda* for a fugitive slave was in this form:

"Libertate Probanda.

"The king to the sheriff, &c. A. and B. her sister, have showed unto us, that whereas they are free women, and ready to prove their liberty, F. claiming them to be his nieces unjustly, vexes them; and therefore we command you, that if the aforesaid A. and B. shall make you secure touching the proving of their liberty, then put that plea before our justices at the first assizes, when they shall come into those parts, because proof of this kind belongeth not to you to take; and in the mean time cause the said A. and B. to have peace thereupon, and tell the aforesaid F. that he may be there, if he will, to prosecute his plea thereof against the aforesaid A. and B. And have there this writ. Witness, &c."—(Fitzherbert, Vol. I. p. 77.)

By these various proceedings, all ending in Trial by Jury, Personal Liberty was guarded, even in the early, unrefined, and barbarous days of the common law. Any person claimed as a fugitive slave might invoke this Trial as a sacred right. Whether the master proceeded by seizure, as he might, or by legal process, the Trial by Jury in a suit at common law, before one of the high courts of the realm, was equally secured. In the case of seizure, the fugitive, reversing the proceedings, might institute process against his master, and appeal to a court and jury. In the case of process by the master, the watchful law secured to the fugitive the same protection. By no urgency of force, by no device of process, could any person claimed as a slave be defrauded of this Trial. Such was the common law. If its early boast, that there could be no slaves in England, fails to be true, this at least may be its

pride that, according to its indisputable principles, the liberty of every man was placed under the guard of Trial by Jury.

These things may seem new to us; but they must have been known to the members of the Convention, particularly to those from South Carolina, through whose influence the provision on this subject was adopted. Charles Cotesworth Pinckney and Mr. Rutledge had studied law at the Temple, one of the English Inns of Court. It would be a discredit to them, and also to other learned lawyers, members of the Convention, to suppose that they were not conversant with the principles and precedents directly applicable to this subject, all of which are set down in works of acknowledged weight, and at that time of constant professional study. Only a short time before, in the case of *Somerset*, they had been most elaborately examined in Westminster Hall. In a forensic effort of unsurpassed learning and elevation, which of itself vindicates for its author his great juridical name, Mr. Hargrave had fully made them known to such as were little acquainted with the more ancient sources. But even if we could suppose them unknown to the lawyers of the Convention, they are none the less applicable in determining the true meaning of the Constitution.

The conclusion from this examination is explicit. Clearly and indisputably, in England, the country of the common law, a claim for a fugitive slave was "a suit at common law," recognised "among its old and settled proceedings." To question this, in the face of authentic principles and precedents, would be preposterous. As well might it be questioned, that a writ of replevin for a horse, or a writ of right for land, was "a suit at common law." It follows, then, that this *technical term* of the Constitution, read in the illumination of the common law, naturally and necessarily embraces proceedings for the recovery of fugitive slaves, *if any such be instituted or allowed under the Constitution*. And thus, by the letter of the Constitution, in harmony with the requirements of the common law, all such persons, when claimed by their masters, are entitled to a Trial by Jury.

Such, sir, is the argument, briefly uttered, against the constitutionality of the Slave Act. Much more I might say on this matter; much more on the two chief grounds of objection which I have occupied. But I am admonished to hasten on.

Opposing this Act as doubly unconstitutional from a want of power in Congress and from a denial of Trial by Jury, I find myself again encouraged by the example of our Revolutionary Fathers, in a case which is one of the landmarks of history. The parallel is important and complete. In 1765, the British Parliament, by a notorious statute, attempted to draw money from the colonies through a stamp tax, while the determination of certain questions of forfeiture under the statute was delegated—not to the courts of common law, but to courts of Admiralty without a jury. The Stamp Act, now execrated by all lovers of liberty, had this extent and no more. Its passage was the signal for a general flame of opposition and indignation throughout the Colonies. It was denounced as contrary to the British Constitution on two principal grounds; *first*, as a usurpation by Parliament of powers not belonging to it, and an infraction of rights secured to the colonies; *secondly*, as a denial of Trial by Jury in certain cases of property.

The public feeling was variously expressed. At Boston, on the arrival of the stamps, the shops were closed, the bells of the churches tolled, and the flags of the ships hung at half-mast. At Portsmouth, in New Hampshire, the bells were tolled, and notice given to the friends of Liberty to hold themselves in readiness to attend her funeral. At New York a letter was received from Franklin, then in London, written on the day after the passage of the Act, in which he said: "The sun of liberty is set." The obnoxious Act, headed "Folly of England and Ruin of America," was contemptuously hawked through the streets. The merchants of New York, inspired then by Liberty,

resolved to import no more goods from England until the repeal of the Act; and their example was followed shortly afterwards by the merchants of Philadelphia and Boston. Bodies of patriots were organized every where under the name of "Sons of Liberty." The orators also spoke. James Otis with fiery tongue appealed to Magna Charta.

Of all the States, Virginia—whose shield bears the image of Liberty trampling upon the chains—first declared herself by solemn resolutions, which the timid thought "treasonable;" but which soon found a response. New York followed. Massachusetts came next, speaking by the pen of the inflexible Samuel Adams. In an Address from the Legislature to the Governor, the true grounds of opposition to the Stamp Act, coincident with the two radical objections to the Slave Act, are clearly set forth:

"You are pleased to say that the Stamp Act is an act of Parliament, and as such ought to be observed. This House, sir, has too great reverence for the Supreme Legislature of the nation, to *question its just authority*. It by no means appertains to us to presume to adjust the boundaries of the *power* of Parliament; *but boundaries there undoubtedly are*. We hope we may, without offence, put your Excellency in mind of that most grievous sentence of excommunication solemnly denounced by the Church in the name of the sacred Trinity, in the presence of King Henry the Third and the estates of the realm, *against all those who should make statutes or observe them, being made, contrary to the liberties of Magna Charta*. The Charter of this province invests the General Assembly with the *power* of making laws for its internal government and taxation; and this Charter has never been forfeited. The Parliament has a right to make all laws within the limits of their own constitution." * * * "The people complain that the Act vests a single judge of the Admiralty with a power to try and determine their property in controversies arising from internal concerns, *without a jury*, contrary to the very expression of Magna Charta, that no freeman shall be amerced, but by the oath of good and lawful men of the vicinage." * * * "We deeply regret that the Parliament has seen fit to pass such an act as the Stamp Act; we flatter ourselves that the hardships of it will shortly appear to them in such a light as shall induce them in their wisdom to repeal it; *in the mean time, we must beg your Excellency to excuse us from doing any thing to assist in the execution of it.*"

Thus in those days spoke Massachusetts! The parallel still proceeds. The unconstitutional Stamp Act was welcomed in the Colonies by the Tories of that day precisely as the unconstitutional Slave Act has been welcomed by large and imperious numbers among us. Hutchinson, at that time Lieutenant Governor and Judge in Massachusetts, wrote to Ministers in England: "The Stamp Act is received with as much decency as could be expected. It leaves no room for evasion, and will execute itself." Like the judges of our day, in charges to grand juries he resolutely vindicated the Act, and admonished "the jurors and the people" to obey. Like Governors of our day, Bernard, in his speech to the Legislature of Massachusetts, demanded unreasonable submission. "I shall not," says this British Governor, "enter into any disquisition of the policy of this Act. I have only to say it is an act of the Parliament of Great Britain; and I trust that the supremacy of that Parliament over all the members of their wide and diffused empire never was and never will be denied within these walls." Like marshals of our day, the officers of the Customs made "application for a military force to assist them in the execution of their duty." The military were against the people. A British major of artillery at New York exclaimed, in tones not unlike those now sometimes heard: "I will cram the stamps down their throats with the end of my sword." The elaborate answer of Massachusetts—a paper of historic grandeur—drawn by Samuel Adams, was pronounced "the ravings of a parcel of wild enthusiasts."

Thus in those days spoke the partisans of the Stamp Act. But their weakness soon became manifest. In the face of an awakened community, where discussion has free scope, no men, though surrounded by office and wealth, can long sustain injustice. Earth, water, nature, they may subdue; but Truth they cannot subdue. Subtle and mighty, against all efforts and devices, it fills every region of light with its majestic presence. The Stamp Act was dis-

cussed and understood. Its violation of constitutional rights was exposed. By resolutions of Legislatures and of town meetings, by speeches and writings, by public assemblies and processions, the country was rallied in peaceful phalanx *against the execution of the Act*. To this great object, within the bounds of law and the constitution, were bent all the patriot energies of the land.

And here Boston took the lead. Her records at this time are full of proud memorials. In formal instructions to her representatives, adopted unanimously, "having been read several times," in Town Meeting at Faneuil Hall, the following rule of conduct was prescribed:

"We, therefore, think it our indispensable duty, in Justice to ourselves and Posterity, as it is our undoubted Privilege, in the most open and unreserved, but decent and respectful Terms, to declare our greatest Dissatisfaction with this law. *And we think it incumbent upon you by no Means to join in any public Measures for countenancing and assisting in the execution of the same.* But to use your best endeavours in the General Assembly to have the inherent inalienable Rights of the People of this Province asserted, and vindicated, and left upon the public record, that Posterity may never have reason to charge the present Times with the Guilt of tamely giving them away."

Virginia responded to Boston. Many of her justices of the peace surrendered their commissions "rather than aid in the enforcement of the law, or be instrumental in the overthrow of their country's liberties."

As the opposition deepened, its natural tendency was to outbreak and violence. But this was carefully restrained. On one occasion in Boston it showed itself in the lawlessness of a mob. But the town, at a public meeting in Faneuil Hall, called without delay on the motion of the opponents of the Stamp Act, with James Otis as chairman, condemned the outrage. Eager in hostility to the execution of the Act, Boston cherished municipal order, and constantly discountenanced all tumult, violence, and illegal proceedings. Her equal devotion to those two objects drew the praises and congratulations of other towns. In reply, March 27th, 1766, to an Address from the inhabitants of Plymouth, her own consciousness of duty done is thus expressed:

"If the inhabitants of Boston have taken *the legal and warrantable measures to prevent that misfortune of all others the most to be dreaded, the execution of the Stamp Act*, and as necessary means of preventing it have made any spirited applications for opening the custom-houses and courts of justice; *if at the same time they have borne their testimony against outrageous tumults and illegal proceedings*, and given any example of the Love of Peace and good order, next to the consciousness of having done their duty is the satisfaction of meeting with the approbation of any of their fellow-countrymen."

Learn now from the Diary of John Adams the results of this system:

"The year 1765 has been the most remarkable year of my life. That enormous engine, fabricated by the British Parliament, for battering down all the rights and liberties of America—I mean the Stamp Act—has raised and spread through the whole continent a spirit that will be recorded to our honour with all future generations. In every Colony, from Georgia to New Hampshire, inclusively, the stamp distributors and inspectors have been compelled by the unconquerable rage of the people to renounce their offices. Such and so universal has been the resentment of the people, that every man who has dared to speak in favour of the stamps, or to soften the detestation in which they are held, how great soever his abilities and virtues had been esteemed before, or whatever his fortune, connexions, and influence had been, has been seen to sink into universal contempt and ignominy."

The Stamp Act became a dead letter. At the meeting of Parliament numerous petitions were presented, calling for its instant repeal. Franklin, at that time in England, while giving his famous testimony before the House of Commons, was asked whether he thought the people of America would submit to this Act if modified. His brief emphatic response was: "No, never, unless compelled by force of arms." Chatham, yet weak with disease, but mighty in eloquence, exclaimed in ever-memorable words: "We are told America is obstinate—America is almost in open rebellion. Sir, *I rejoice that America has resisted.* Three millions of people so dead to all the feelings

of liberty, as voluntarily to submit to be slaves, would have been fit instruments to make slaves of all the rest. The Americans have been wronged; they have been driven to madness. I will beg leave to tell the House in a few words what is really my opinion. *It is that the Stamp Act be repealed, absolutely, totally, and immediately.*" It was repealed. Within less than a year from its original passage, denounced and discredited, it was driven from the Statute Book. In the charnel-house of history, with the unclean things of the Past, it now rots. Thither the Slave Act is destined to follow.

Sir, regarding the Stamp Act candidly and cautiously, free from the animosities of the time, it is impossible not to see that, though gravely unconstitutional, it was at most an infringement of *civil* liberty only; not of *personal* liberty. There was an unjust tax of a few pence, with the chances of amercements by a single judge without a jury; but by no provision of this Act was the *personal* liberty of any man assailed. Under it no freeman could be seized as a slave. Such an act, though justly obnoxious to every lover of constitutional Liberty, cannot be viewed with the feelings of repugnance enkindled by a statute which assails the personal liberty of every man, and under which any freeman may be seized as a slave. Sir, in placing the Stamp Act by the side of the Slave Act, I do injustice to that emanation of British tyranny. Both, indeed, infringe important rights; one of property; the other the vital right of all, which is to other rights as the soul to the body—the *right of a man to himself*. Both are condemned; but their relative condemnation must be measured by their relative characters. As Freedom is more than property; as Man is above the dollar that he earns; as Heaven, to which we all aspire, is higher than the earth, where every accumulation of wealth must ever remain: so are the rights assailed by an American Congress higher than those once assailed by the British Parliament. And just in this degree must history condemn the Slave Act more than the Stamp Act.

Sir, I might here stop. It is enough in this place, and on this occasion, to show the unconstitutionality of this enactment. Your duty commences at once. All legislation hostile to the fundamental law of the land should be repealed without delay. But the argument is not yet exhausted. Even if this Act could claim any validity or apology under the Constitution, which it cannot, *it lacks that essential support in the Public Conscience of the States, where it is to be enforced, which is the life of all law, and without which any law must become a dead letter.*

The Senator from South Carolina [Mr. BUTLER] was right, when, at the beginning of the session, he pointedly said that a law which could be enforced only by the bayonet, was no law. Sir, it is idle to suppose that an Act of Congress becomes effective merely by compliance with the forms of legislation. Something more is necessary. The Act must be in harmony with the prevailing public sentiment of the community upon which it bears. Of course, I do not suggest that the cordial support of every man or of every small locality is necessary; but I do mean that the public feelings, the public convictions, the public conscience, must not be touched, wounded, lacerated, by every endeavour to enforce it. With all these it must be so far in harmony, that, like other laws, by which property, liberty, and life, are guarded, it may be administered by the ordinary process of the courts, without jeopardizing the public peace or shocking good men. If this be true as a general rule—if the public support and sympathy be essential to the life of all law, this is especially the case in an enactment which concerns the important and sensitive rights of personal liberty. In conformity with this principle the Legislature of Massachusetts, by formal resolution, in 1850, with singular unanimity, declared:

"We hold it to be the duty of Congress to pass such laws only in regard thereto as will be maintained by the sentiments of the Free States, where such laws are to be enforced."

The duty of consulting these sentiments was recognised by Washington. While President of the United States, at the close of his administration, he sought to recover a slave, who had fled to New Hampshire. His autograph letter to Mr. Whipple, the Collector of Portsmouth, dated at Philadelphia, 28th November, 1796, which I now hold in my hand, and which has never before seen the light, after describing the fugitive, and particularly expressing the desire of "her mistress," Mrs. Washington, for her return, employs the following decisive language :

"I do not mean, however, by this request, that such violent measures should be used AS WOULD EXCITE A MOB OR RIOT, WHICH MIGHT BE THE CASE IF SHE HAS ADHERENTS, OR EVEN UNEASY SENSATIONS IN THE MINDS OF WELL-DISPOSED CITIZENS. Rather than either of these should happen, I would forego her services altogether; and the example also, which is of infinitely more importance.

GEORGE WASHINGTON."

Mr. Whipple, in his reply, dated at Portsmouth, December 22, 1796, an autograph copy of which I have, recognises the rule of Washington :

"I will now, sir, agreeably to your desire, send her to Alexandria, *if it be practicable without the consequences which you except—that of exciting a riot or a mob, or creating uneasy sensations in the minds of well-disposed persons.* The first cannot be calculated beforehand; it will be governed by the popular opinion of the moment, or the circumstances that may arise in the transaction. The latter may be sought into and judged of by conversing with such persons without discovering the occasion. So far as I have had opportunity, I perceive that different sentiments are entertained on this subject."

The fugitive never was returned; but lived in freedom to a good old age, down to a very recent period, a monument of the just forbearance of him whom we aptly call the Father of his Country. It is true that he sought her return. This we must regret, and find its apology. He was at the time a slaveholder. Though often with various degrees of force expressing himself against slavery, and promising his suffrage for its abolition, he did not see this wrong as he saw it at the close of life, in the illumination of another sphere. From this act of Washington, still swayed by the policy of the world, I appeal to Washington, writing his will. From Washington on earth I appeal to Washington in heaven. Seek not by his name to justify any such effort. His death is above his life. His last testament cancels his authority as a slaveholder. However he may have appeared before man, he came into the presence of God only as the liberator of his slaves. Grateful for this example, I am grateful, also, that while a slaveholder, and seeking the return of a fugitive, he has left in permanent record a rule of conduct which, if adopted by his country, will make Slave-Hunting impossible. The chances of a riot or mob, or "even uneasy sensations among well-disposed persons," are to prevent any such pursuit.

Sir, the existing Slave Act cannot be enforced without violating the precept of Washington. Not merely "uneasy sensations of well-disposed persons," but rage, tumult, commotion, mob, riot, violence, death, gush from its fatal overflowing fountains :

———hoc fonte derivata clades
In patriam populumque fluxit.

Not a case occurs without endangering the public peace. Workmen are brutally dragged from employments to which they are wedded by years of successful labour; husbands are ravished from wives, and parents from children. Every where there is disturbance; at Detroit, Buffalo, Harrisburg, Syracuse, Philadelphia, New York, Boston. At Buffalo the fugitive was cruelly knocked by a log of wood against a red-hot stove, and his mock trial commenced while the blood still oozed from his wounded head. At Syracuse he was rescued by a sudden mob; so also at Boston. At Harrisburg the fugitive was shot; at Christiana the Slave-Hunter was shot. At New York unprecedented excitement, always with uncertain consequences, has attended every case. Again at Boston, a fugitive, according to the re-

ceived report, was first basely seized under pretext that he was a criminal; arrested only after a deadly struggle; guarded by officers who acted in violation of the laws of the State; tried in a Court House surrounded by chains, contrary to the common law; finally surrendered to Slavery by trampling on the criminal process of the State, under an escort in violation again of the laws of the State, while the pulpits trembled and the whole people, not merely "uneasy," but swelling with ill-suppressed indignation, for the sake of order and tranquillity, without violence witnessed the shameful catastrophe.

With every attempt to administer the Slave Act, it constantly becomes more revolting, particularly in its influence on the agents it enlists. Pitch cannot be touched without defilement, and all who lend themselves to this work seem at once and unconsciously to lose the better part of man. The spirit of the law passes into them, as the devils entered the swine. Upstart commissioners, the mere mushrooms of courts, vie and revie with each other. Now by indecent speed, now by harshness of manner, now by a denial of evidence, now by crippling the defence, and now by open glaring wrong, they make the odious Act yet more odious. Clemency, grace, and justice, die in its presence. All this is observed by the world. Not a case occurs which does not harrow the souls of good men, and bring tears of sympathy to the eyes, also those other noble tears which "patriots shed o'er dying laws."

Sir, I shall speak frankly. If there be an exception to this feeling, it will be found chiefly with a peculiar class. It is a sorry fact that the "mercantile interest," in its unpardonable selfishness, twice in English history, frowned upon the endeavours to suppress the atrocity of Algerine Slavery; that it sought to baffle Wilberforce's great effort for the abolition of the African slave trade; and that, by a sordid compromise, at the formation of our Constitution, it exempted the same detested, Heaven-defying traffic from American judgment. And now representatives of this "interest," forgetful that commerce is the child of Freedom, join in hunting the Slave. But the great heart of the people recoils from this enactment. It palpitates for the fugitive, and rejoices in his escape. Sir, I am telling you facts. The literature of the age is all on his side. The songs, more potent than laws, are for him. The poets, with voices of melody, are for Freedom. Who could sing for Slavery? They who make the permanent opinion of the country, who mould our youth, whose words, dropped into the soul, are the germs of character, supplicate for the Slave. And, now, sir, behold a new and heavenly ally. A woman, inspired by Christian genius, enters the lists, like another Joan of Arc, and with marvellous power sweeps the chords of the popular heart. Now melting to tears, and now inspiring to rage, her work every where touches the conscience, and makes the Slave-Hunter more hateful. In a brief period, nearly 100,000 copies of *Uncle Tom's Cabin* have been already circulated. But this extraordinary and sudden success—surpassing all other instances in the records of literature—cannot be regarded merely as the triumph of genius. Higher far than this, it is the testimony of the people, by an unprecedented act, against the Fugitive Slave Bill.

These things I dwell upon as the incentives and tokens of an existing public sentiment, which renders this Act practically inoperative, except as a tremendous engine of terror. Sir, the sentiment is just. Even in the lands of slavery, the slave-trader is loathed as an ignoble character, from whom the countenance is turned away; and can the Slave Hunter be more regarded while pursuing his prey in a land of Freedom? In early Europe, in barbarous days, while Slavery prevailed, a Hunting Master, *nach jagender Herr*, as the Germans called him, was held in aversion. Nor was this all. The fugitive was welcomed in the cities, and protected against the pursuit. Sometimes vengeance awaited the Hunter. Down to this day, at Revel, now a Russian city, a sword is proudly preserved with which a Hunting Baron was beheaded, who, in violation of the municipal rights of this place, seized a

fugitive slave. Hostile to this Act as our public sentiment may be, it exhibits no trophy like this. The State laws of Massachusetts have been violated in the seizure of a fugitive slave; but no sword, like that of Revel, now hangs at Boston.

I have said, sir, that this sentiment is just. And is it not? Every escape from Slavery necessarily and instinctively awakens the regard of all who love Freedom. The endeavour, though unsuccessful, reveals courage, manhood, character. No story is read with more interest than that of our own Lafayette, when, aided by a gallant South Carolinian, in defiance of the despotic ordinances of Austria, kindred to our Slave Act, he strove to escape from the bondage of Olmutz. Literature pauses with exultation over the struggles of Cervantes, the great Spaniard, while a slave in Algiers, to regain the liberty for which, he says, in his immortal work, "we ought to risk life itself, Slavery being the greatest evil that can fall to the lot of man." Science, in all her manifold triumphs, throbs with pride and delight, that Arago, the astronomer and philosopher—devoted republican also—was redeemed from barbarous Slavery to become one of her greatest sons. Religion rejoices serenely, with joy unspeakable, in the final escape of Vincent de Paul. Exposed in the public square of Tunis to the inspection of the traffickers in human flesh, this illustrious Frenchman was subjected to every vileness of treatment; like a horse, compelled to open his mouth to show his teeth, to trot, to run, to exhibit his strength in lifting burdens, and then, like a horse, legally sold in market overt. Passing from master to master, after a protracted servitude, he achieved his freedom, and regaining France, commenced that resplendent career of charity by which he is placed among the great names of Christendom. Princes and orators have lavished panegyrics upon this fugitive slave; and the Catholic Church, in homage to his extraordinary virtues, has introduced him into the company of saints.

Less by genius or eminent services, than by sufferings, are the fugitive slaves of our country now commended. For them every sentiment of humanity is aroused:

———"Who could refrain
That had a heart to love, and in that heart
Courage to make his love known?"

Rude and ignorant they may be; but in their very efforts for Freedom they claim kindred with all that is noble in the Past. They are among the heroes of our age. Romance has no stories of more thrilling interest than theirs. Classical antiquity has preserved no examples of adventurous trial more worthy of renown. Among them are men whose names will be treasured in the annals of their race. By their eloquent voice they have already done much to make their wrongs known, and to secure the respect of the world. History will soon lend them her avenging pen. Proscribed by you during life, they will proscribe you through all time. Sir, already judgment is beginning. A righteous public sentiment palsies your enactment.

And now, sir, let us review the field over which we have passed. We have seen that any compromise, finally closing the discussion of Slavery under the Constitution, is tyrannical, absurd, and impotent; that as Slavery can exist only by virtue of positive law, and as it has no such positive support in the Constitution, it cannot exist within the National jurisdiction; that the Constitution nowhere recognises property in man, and that, according to its true interpretation, Freedom and not Slavery is national, while Slavery and not Freedom is sectional; that, in this spirit, the National Government was first organized under Washington, himself an Abolitionist, surrounded by Abolitionists, while the whole country, by its Church, its Colleges, its Literature, and all its best voices, was united against Slavery, and the national flag at that time nowhere within the National Territory covered a single slave; still further, that the National Government is a Government of delegated powers,

and as among these there is no power to support Slavery, this institution cannot be national, nor can Congress in any way legislate in its behalf; and, finally, that the establishment of this principle is the true way of peace and safety for the Republic. Considering next the provision for the surrender of fugitives from labour, we have seen that it was not one of the original compromises of the constitution; that it was introduced tardily and with hesitation, and adopted with little discussion, and then and for a long period after was regarded with comparative indifference; that the recent Slave Act, though many times unconstitutional, is especially so on two grounds—*first*, as a usurpation by Congress of powers not granted by the Constitution, and an infringement of rights secured to the States; and *secondly*, as a denial of Trial by Jury, in a question of Personal Liberty and a suit at common law; that its glaring unconstitutionality finds a prototype in the British Stamp Act, which our fathers refused to obey as unconstitutional on two parallel grounds—*first*, because it was a usurpation by Parliament of powers not belonging to it under the British Constitution and an infringement of rights belonging to the Colonies; and *secondly*, because it was a denial of Trial by Jury in certain cases of property; that as Liberty is far above property, so is the outrage perpetrated by the American Congress far above that perpetrated by the British Parliament; and, finally, that the Slave Act has not that support in the public sentiment of the States where it is to be executed, which is the life of all law, and which prudence and the precept of Washington require.

Sir, thus far I have arrayed the objections to this Act, and the false interpretations out of which it has sprung. But I am asked what I offer as a substitute for the legislation which I denounce. Freely I will answer. It is to be found in a correct appreciation of the provision of the Constitution, under which this discussion occurs. Look at it in the double light of reason and of Freedom, and we cannot mistake the exact extent of its requirements. Here is the provision:

“No person held to service or labour in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labour, but shall be delivered up on claim of the party to whom such service or labour may be due.”

From the very language employed it is obvious that this is merely a *compact* between the States, with a *prohibition* on the States, *conferring no power on the nation*. In its natural signification it is a compact. According to the examples of other countries, and the principles of jurisprudence, it is a compact. All arrangements for the extradition of fugitives have been customarily compacts. Except under the express obligations of treaty, no nation is bound to surrender fugitives. Especially has this been the case with fugitives for Freedom. In medieval Europe, cities refused to recognise this obligation in favour of persons even under the same National Government. In 1531, while the Netherlands and Spain were united under Charles V., the Supreme Council of Mechlin rejected an application from Spain for the surrender of a fugitive slave. By express compact alone could this be secured. But the provision of the Constitution was borrowed from the Ordinance of the Northwestern Territory, which is expressly declared to be a compact; and this Ordinance, finally drawn by Nathan Dane, was again borrowed in its distinctive features from the early institutions of Massachusetts, among which, as far back as 1643, was a compact of like nature with other New England States. Thus this provision is a compact in language, in nature, in its whole history; as we have already seen it is a compact, according to the intentions of our Fathers and the genius of our institutions.

As a compact its execution depends absolutely upon the States, without any intervention of the Nation. *Each State, in the exercise of its own judgment, will determine for itself the precise extent of the obligations assumed.* As a compact in derogation of Freedom, it must be construed strictly in every

respect—leaning always in favour of Freedom, and shunning any meaning, not clearly necessary, which takes away important personal rights; mindful that the parties to whom it is applicable are regarded as “persons,” of course with all the rights of “persons,” under the Constitution; especially mindful of the vigorous maxim of the common law, “that he is cruel and impious who does not always favour Freedom:” and also completely adopting in letter and in spirit, as becomes a just people, the rules of the great Commentator, that “the law is always ready to catch at any thing in favour of Liberty.” With this key the true interpretation is natural and easy.

Briefly, the States are prohibited from any “law or regulation” by which any “person” escaped from “service or labour” may be discharged therefrom, and on establishment of the claim to such “service or labour” he is to be delivered up. But the mode by which the claim is to be tried and determined is not specified. All this is obviously within the control of each State. It may be done by virtue of express legislation, in which event any Legislature justly careful of Personal Liberty, would surround the fugitive with every shield of the law and Constitution. But here a fact, pregnant with Freedom, must be studiously observed. The name Slave—that litany of wrong and wo—does not appear in the clause. Here is no unambiguous phrase, incapable of a double sense; no “positive” language, applicable only to slaves, and excluding all other classes; no word of that absolute certainty, in every particular, which forbids any interpretation except that of Slavery, and makes it impossible “to catch at any thing in favour of Liberty.” Nothing of this kind is here. But passing from this; “cruelly and impiously” renouncing for the moment all leanings for Freedom; refusing “to catch at any thing in favour of Liberty;” abandoning the cherished idea of the Fathers, that “it was *wrong* to admit in the Constitution the idea of property in man;” and, in the face of these commanding principles, assuming two things—first, that, in the evasive language of this Clause, the Convention, whatever may have been the aim of individual members, really intended fugitive slaves, which is sometimes questioned—and, secondly, that, if they so intended, the language employed can be judicially regarded as justly applicable to fugitive slaves, which is often and earnestly denied—then the whole proceeding, without any express legislation, may be left to the ancient and authentic forms of the common law, familiar to the framers of the Constitution and ample for the occasion. If the fugitive be seized without process, he will be entitled at once to his writ *de Homine Replegiando*, while the master, resorting to process, may find his remedy in the writ *de Nativo Habendo*—each writ requiring Trial by Jury. If from ignorance or lack of employment these processes have slumbered in our country, still they belong to the great arsenal of the common law, and continue, like other ancient writs, *tantum gladium in vagina*, ready to be employed at the first necessity. They belong to the safeguards of the citizen. But in any event and in either alternative, the proceedings would be by “suit at common law,” with Trial by Jury; and it would be the solemn duty of the court, according to all the forms and proper delays of the common law, to try the case on the evidence; strictly to apply all the protecting rules of evidence, and especially to require stringent proof, by competent witnesses under cross-examination, that the person claimed was *held* to service; that his service was *due* to the claimant; that he had *escaped* from the State where such service was due; and also proof of the *laws* of the State under which he was held. *Still further, to the Courts of each State must belong the determination of the question, to what classes of persons, according to just rules of interpretation, the phrase “persons held to service or labour” is strictly applicable.*

Such is this much-debated provision. The Slave States, at the formation of the Constitution, did not propose, as in the cases of Naturalization and Bankruptcy, to empower the National Government *to establish an uniform*

rule for the rendition of fugitives from labour, *throughout the United States*; they did not ask the National Government to charge itself in any way with this service; they did not venture to offend the country, and particularly the Northern States, by any such assertion of a hateful right. They were content, under the sanctions of compact, to leave it to the public sentiment of the States. There, I insist, it shall remain.

Mr. President, I have occupied much time; but the great subject still stretches before us. One other point yet remains, which I should not leave untouched, and which justly belongs to the close. The Slave Act violates the Constitution and shocks the Public Conscience. With modesty and yet with firmness let me add, sir, it offends against the Divine Law. No such enactment can be entitled to support. As the throne of God is above every earthly throne, so are his laws and statutes above all the laws and statutes of man. To question these is to question God himself. But to assume that human laws are beyond question is to claim for their fallible authors infallibility. To assume that they are always in conformity with those of God is presumptuously and impiously to exalt man to an equality with God. Clearly human laws are not always in such conformity; nor can they ever be beyond question from each individual. Where the conflict is open, as if Congress should command the perpetration of murder, the office of conscience as final arbiter is undisputed. But in every conflict the same Queenly office is hers. By no earthly power can she be dethroned. Each person, after anxious examination, without haste, without passion, solemnly for himself must decide this great controversy. Any other rule attributes infallibility to human laws, places them beyond question, and degrades all men to an unthinking passive obedience.

According to St. Augustine, an unjust law does not appear to be a law; *lex esse non videtur quæ justa non fuerit*; and the great fathers of the Church, while adopting these words, declare openly that unjust laws are not binding. Sometimes they are called "abuses," and not laws; sometimes "violences," and not laws. And here again the conscience of each person is the final arbiter. But this lofty principle is not confined to the Church. A master of philosophy in early Europe, a name of intellectual renown, the eloquent Abelard, in Latin verses addressed to his son, has clearly expressed the universal injunction:

Jussa potestatis terrenæ discutienda
Cælestis tibi mox perficienda scias.
Siquis divinis jubeat contraria jussis
Te contra Dominum pactio nulla trahat.

The mandates of an earthly power are to be discussed; those of Heaven must at once be performed; nor can any agreement constrain us against God. Such is the rule of morals. Such, also, by the lips of judges and sages, has been the proud declaration of the English law, whence our own is derived. In this conviction patriots have fearlessly braved unjust commands, and martyrs have died.

And now, sir, the rule is commended to us. The good citizen, as he thinks of the shivering fugitive, guilty of no crime, pursued, hunted down like a beast, while praying for Christian help and deliverance, and as he reads the requirements of this act, is filled with horror. Here is a despotic mandate, "to aid and assist in the prompt and efficient execution of this law." Again let me speak frankly. Not rashly would I set myself against any provision of law. This grave responsibility I would not lightly assume. But here the path of duty is clear. By the Supreme Law, which commands me to do no injustice; by the comprehensive Christian Law of Brotherhood; by the Constitution, which I have sworn to support, I AM BOUND TO DISOBEY THIS ACT. Never, in any capacity, can I render voluntary aid in its execution. Pains and penalties I will endure; but this great wrong I will not do. "I cannot obey;

but I can suffer," was the exclamation of the author of Pilgrim's Progress, when imprisoned for disobedience to an earthly statute. Better suffer injustice than do it. Better be the victim than the instrument of wrong. Better be even the poor slave, returned to bondage, than the unhappy Commissioner.

There is, sir, an incident of history, which suggests a parallel, and affords a lesson of fidelity. Under the triumphant exertions of that Apostolic Jesuit, St. Francis Xavier, large numbers of the Japanese, amounting to as many as two hundred thousand—among them princes, generals, and the flower of the nobility—were converted to Christianity. Afterwards, amidst the frenzy of civil war, religious persecution arose, and the penalty of death was denounced against all who refused to trample upon the effigy of the Redeemer. This was the Pagan law of a Pagan land. But the delighted historian records that scarcely one from the multitudes of converts was guilty of this apostacy. The law of man was set at naught. Imprisonment, torture, death, were preferred. Thus did this people refuse to trample on the painted image. Sir, multitudes among us will not be less steadfast in refusing to trample on the living image of their Redeemer.

Finally, sir, for the sake of peace and tranquillity, cease to shock the Public Conscience; for the sake of the Constitution, cease to exercise a power which is nowhere granted, and which violates inviolable rights expressly secured. Leave this question where it was left by our fathers, at the formation of our National Government, in the absolute control of the States, the appointed guardians of Personal Liberty. Repeal this enactment. Let its terrors no longer rage through the land. Mindful of the lowly whom it pursues; mindful of the good men perplexed by its requirements; in the name of charity, in the name of the Constitution, repeal this enactment, totally and without delay. Be inspired by the example of Washington. Be admonished by those words of Oriental piety—"Beware of the groans of the wounded souls. Oppress not to the utmost a single heart; for a solitary sigh has power to upset a whole world."

Theological Discussions.

(For the Banner of the Covenant.)

BIBLE CLASS QUESTIONS.

[We exceedingly regret that the following section of these valuable questions has been omitted in its proper place. The reader will please connect it with the part published in our January number, p. 18.]

THE APPLICATION OF THIS ARGUMENT.

Let us inquire, Has it not been clearly proved that the promise to Adam contained the first intimation of the covenant of grace? And have we not also seen that it was by his faith acting on the testimony contained in this promise, that Abel offered a more acceptable sacrifice than Cain? Did not, therefore, Abel's faith lead him also to rest upon the unchangeable righteousness which alone can justify before God? Hence it is that God had respect to the offering of Abel? As to Noah, was he not a just man? Is he not said to have been perfect in his generations? Did he not walk with God? See Gen. vi. 9. And, moreover, was he not an heir of the righteousness which is by faith? But that righteousness is the same immutable righteousness in all cases? Of this Abel became an heir by faith; and of this one righteousness, did not Noah also become an heir by that faith which is *essentially* one in all cases? Therefore, by the faith which is essentially one in all cases, did not both Abel and Noah become heirs of the righteousness which is immutably the same? But this righteousness was, undeniably, the matter of the first promise to Adam, and, therefore, was it not evidently the

matter of the promise to Noah? How old was Adam when he died? See Gen. v. 5. How old was Noah when the flood came? See Gen. vii. 6. Now, if Adam lived 930 years, and Noah was 600 years of age when the flood came, did not Noah live very nearly the time of Adam? Is it, then, at all likely that Noah could be ignorant of the first promise? Had that first promise been fulfilled when the flood came? Now, if he could not have been ignorant of that first promise, but firmly believed the testimony it contained, and as he was certain that the promised seed had not then appeared, but that the seed of the serpent prevailed to a fearful extent, is it not then most evident that either he did not believe in that promise at all, or his faith in it must have been strikingly clear and strong? But did not that promise contain the first announcement of the true righteousness? If, then, he did not believe in it at all, renewed or unrenewed, could he have been an heir of the righteousness which is by faith? But did he not become heir of the one immutable righteousness by the faith which is essentially one in all cases? Now, mark: As there is but one righteousness to justify, and that righteousness was the matter of the revelation of the first promise, then, if the promise to Noah was not a *renewal* of the promise to Adam, and yet he became an heir of the true righteousness by believing, could he have become an heir of this righteousness by believing any testimony which was delivered immediately to himself? But does not the apostle, Heb. xi. 7, expressly assert that Noah became (i. e. was proved to be) *heir* of the righteousness which justifies, by believing the testimony delivered to himself? Now, observe again: Since Noah became heir of the only righteousness which can justify, by believing what was delivered immediately to himself, and since that righteousness was, undeniably, the substance of the revelation of the first promise, then have we not evidence most clear, satisfactory, and conclusive, that the promise to Noah, "I will establish my covenant with thee," was verily, in substance, the same as the promise to Adam, and that it was certainly a *renewal* of that promise?

To present the substance of the preceding section in the clearest manner and in the shortest bounds possible, let us ask, Is not all divine testimony, upon which saving faith acts, essentially and substantially the same? But did not saving faith, in the case of Abel and others, rest upon the testimony delivered to Adam?—and, in the case of Noah, upon the divine testimony delivered immediately to himself. See Heb. xi. 4—7. And, therefore, since all divine testimony, upon which saving faith acts, is substantially the same, and since saving faith, in these different instances, rested upon the testimony delivered first to Adam, then to Noah, was not the testimony, or promise, delivered immediately to Noah, the same in substance as that delivered to Adam?

NOTE.—The mere *circumstantial* difference forms no objection to the *substantial* sameness.

Practical Essays.

AN INTERESTING NARRATIVE.

TO THE EDITOR OF THE BANNER OF THE COVENANT—

DEAR SIR—Not long since a young man, whose mother belongs to my congregation, returned from sea, and received a considerable sum that, by his father's will, belonged to him on his coming of age. He determined to leave the sea entirely: took a store in this town: stocked it, and started in business. In a short time he lost all he had. He was thus, as it were, forced to return to his old employment. He went once more to sea. He sailed, I believe, from Liverpool for San Francisco. When he left his home, he was living "without God and without hope in the world." Many an anxious thought concerning him filled his mother's breast, and

many a prayer she offered up that he might be led to God. His vessel reached the entrance of San Francisco Bay in safety; but just as she was sailing in on a dark night, another coming out came into collision with her, striking her on the side, and, to all appearance, making her speedy destruction certain. In company with one or two other sailors, he caught by the bowsprit of the strange vessel, and swung himself on her deck. And there he stood without a friend, and without a fragment of property but the clothes he wore. He was taken on board this ship to Valparaiso in South America. He remained there for some time, and witnessed a tremendous earthquake during his stay. At length he shipped on board a vessel bound to a port in California: thence to the Sandwich Islands: from thence he went in another vessel to China, and thence to New York. That, at least, is his course as accurately as I remember his own account of it. It was during his voyage across the Pacific to China that God first brought religious truth home to his heart and conscience. The following extract, from a letter written from New York to his mother, will explain the circumstances that led, as I hope and believe, to his conversion. They are singular and striking, and illustrate very strongly the nature of Divine Providence, and the power of the simple Word of God. The whole incident is fitted to give great comfort and encouragement to those who have irreligious relations at sea. Here was a widowed mother, her son thousands of miles away, in the midst of the great ocean: she mourned for his ungodliness: she had no tie to bind him to her but prayer: no means of influencing him but through the throne of grace. And most unexpectedly, as by little less than a miracle, her anxieties are rewarded: her son is saved.

I may add that since that time, when this letter was written, he returned home: remained steadfast by his profession: joined my congregation in the Sacrament of the Supper: and is now gone forth, holding fast, I trust, the profession of his faith, an emigrant to a distant dependency of Great Britain.

Yours, &c., M. N.

EXTRACT FROM LETTER.

"Now, do you know, mother, I am very glad I lost that money and left home! for, thanks be to God, since I left, my eyes have been opened, and I have seen the danger I was in. I have often wondered that the Almighty has been with me so long: my whole life has been one continued course of sin and open contempt of his laws: I have been guilty of doing many things which, I believe, I would not do again to gain a kingdom. On the passage over from California to China, we had no books that I could read (they were all Dutch) except one, an English Testament, which belonged to another Englishman that was on board. So on Sabbath I took hold of it to read: could I have gotten any other book, most likely the Testament would not have been minded: I opened it at the Epistle of James; and when I had read the 19th verse of the 2d chapter, (Thou believest there is one God, the devils also believe and tremble,) it struck me in a different manner from any thing in the Scriptures before. I saw that man is required to do something more than merely believe that there is a God. Well, I commenced to read the Testament regularly, and I, for the first time, learned that we cannot be saved by our own righteousness, but by the righteousness of Christ, as a substitute for all who will accept it. Now, although I sat and heard the gospel preached at home every Sabbath, I imagined that if a man killed no one, nor stole

any thing, he would be sure to be saved. I did not know that we are naturally wicked, and can do nothing good. You remember how I refused to communicate at the Lord's Table when Rev. Mr. — and you wanted me. It is well I did not, as, in the state of mind I was in then, I was unfit, and had I done so, it must have been at the peril of my soul. But now, thank God, I would not for a moment hesitate; nay, I would consider it a great privilege and incumbent duty to confess Christ, as he has said, "Them that confess me before men, the same will I confess before my Father and the holy angels." How readily would we confess and glory in being in the service or household of the queen of England; how much more reason have we to glory in the service of Christ our Mediator, who has reconciled us to God, with whom we were at enmity, by offering up himself a living sacrifice to satisfy Divine justice. What amazing condescension to think that the Eternal Son of God left his abode in heaven, and came here to dwell on earth, and undergo all afflictions and temptations that we are subject to, yet without sin, and, last of all, to pour out his own blood for us, that we, unworthy, sinful men, might be restored to the favour of a justly angered God! It appears so infinitely condescending, as to make me sometimes wonder, can it be possible. And yet, for all this, men will reject Him, will not accept the proffered salvation! What farther proof do we need of the sinful nature of man? That is sufficient proof.

"Although I have sinned against God all my days, and do sin against Him every day, either in thought, word, or deed, yet I hope and pray that He will give me grace sufficient to guard against known and deliberate sin. I dare not say I will sin no more, for I know that of myself I can do nothing; but I pray that God will enable me to live the remainder of my life in accordance with the commandments and example of Christ, as much as it is possible for man to do."

(From the Presbyterian.)

THE SECULAR MINISTER.

"You seem out of spirits," said Mrs. Nelson to her husband, who had just returned from the neighbouring village, whither he had gone in the morning to attend a funeral. "I do not like to see you so silent and sad. Has any thing gone wrong to-day?"

Mr. Nelson, who had been sitting for some time with his hands on his knees, gazing into the fire, looked up for a moment, gave a deep sigh, and said nothing.

"I must know what is the matter," continued his anxious wife; "something disturbs you, and I cannot rest until I know what it is. Come, speak out—what is it?"

"Why should I make you unhappy with my troubles?" said the sorrowful man; "but, as you will not let me keep them to myself, Mr. Steele told me to-day that he could not wait any longer for his money, and that unless I settled his bill by next week, he would be obliged to take measures to have it settled. I cannot blame him. His money has been long due, and I have told him so often that I hoped to be able to pay him soon, that I am ashamed to say so again; and, in truth, I don't know how he is to be paid."

"Why do you not go to Mr. Mason, or one of the other elders," asked Mrs. Nelson, "and tell them that you need money, and that you must have the balance of your salary for the last year and the years before, which is still due you? They are doing a good business themselves, and are well off, so that even if they have not collected the money due on the subscription, they could easily let you have it."

"Mr. Mason and the other elders," said the husband, "are very good men; but they are not so willing to advance money for other people. The fifty dollars which I got from them three months ago, they say they had to pay out of their own pockets, and they think their subscriptions already very liberal, without paying any thing more; and, as for settling up what is due for my salary, I always receive the same answer, that they have no money in their hands. No, I have tried them often enough."

"How much do the elders subscribe?" said Mrs. Nelson. "Mr. Mason gives fifteen dollars, and the other two ten each, which they think is a good deal." "Is that all?" exclaimed the wife. "Why, Mr. Sampson, and Mr. Jones, and Mr. Scott, each give Mr. Pierson fifty dollars; and they are no better off than our elders—at least, they have not such fine farms and stock, and do not make such good crops. I heard Mr. Mason say, not long ago, that he had sold his crop this year for more than any man in the county; and he is about buying another piece of land to add to his farm. It can't be possible that he gives but fifteen dollars a year!"

"It is possible," responded the husband, "and, moreover, he does not seem to think that even that is well appropriated, for he has been talking to me about not preaching more. This very morning he took me aside, and said that the part of the congregation living near the cross-roads would like to have preaching on Sabbath evenings at the school-house; and, although I told him I was already preaching twice every Sabbath, and attending the Sabbath-school, and that I could not well do more, especially as I would have to take a long ride at night in order to attend at the school-house, he intimated that his old pastor, Mr. Jefferson, did as much in his congregation, and that, if I did not do the same, the people would not be satisfied."

"I would not preach for such people, then," said Mrs. Nelson. "I would just tell them I must go somewhere else."

"But where can I go? You know I have no call to any other church, and no prospect of one. I am not a popular preacher, and these are the only sort sought after in these days. If I give up here, I shall be out of a place entirely; and you know we have no means to live upon, and that I am already in debt. Moreover, I believe the Lord has put me here to do a work, and has already given me souls for my hire, and I cannot run away from duty."

Whilst this conversation was going on, Mrs. Nelson had been busy over the fire preparing supper; for though she had three children, one of them an infant, and another in feeble health, having lain at death's door for weeks not long before, she had all the housework to do herself. She was cook, nurse, house-maid, seamstress, and washerwoman. She had been brought up delicately in one of the older states, never having turned her hand to any sort of drudgery until she married Mr. Nelson, who was a missionary to this new state. She had toiled on cheerfully amidst all hardships, and was willing to do so as long as the people would pay the salary of \$400 promised by them, \$150 of which was paid by the board of missions. Their dwelling was a log-cabin, with the mud punched out between some of the logs to make windows, and the roof so open that, when it rained, she had to put her children under the bed and hoist an umbrella over herself. The bloom had long ago faded from her cheek, and she looked ten years older than she really was; but for all this she did not repine. One of Mr. Nelson's preaching places was fifteen miles distant, so that he was absent a great deal, and that, too, when the frequent sickness of their children required that some one should share with the mother the nursing and night-watching. Mr. Nelson himself had been left a little property by his father; but all this was expended in his education for the ministry, and now he had no dependence except his salary, which, although the people were abundantly able, had never been paid by, at least, one hundred dollars each year. He had been abundant in his labours,

and had the satisfaction to see a number brought into the church through his instrumentality, several of them the children of his most prominent and wealthy members. It had sometimes occurred to him that the good he had been the means of doing in such families might open their hearts; but this hope had proved to be vain. He had lived in poverty, and struggled hard to get along whilst devoting his whole time to the service of others; and now debts were staring him in the face, and at least one of his creditors would wait no longer for his money. What was he to do?

Just then a kind Providence intervened. Through the death of a distant relative, Mr. Nelson was left a legacy of two hundred and fifty dollars, which was about the amount necessary to pay off his debts. He would gladly have kept this little sum to aid in educating his children and replenishing his meager library; but there was no alternative, it must go to meet expenses he had incurred whilst labouring for a people who had an abundance and to spare.

Mr. Nelson went once more to the village, and was able to see Mr. Steele now with some comfort—paid his bill, as well as those of more patient creditors, and returned home that evening with an empty pocket, but for once with a mind at ease. Being now straight with the world, he managed to get on tolerably well, in their small way, for another year—at the end of which, however, he found himself behind hand, with no legacy to fall back upon, and the prospect of a larger deficiency in the coming year, as he had now four children instead of three, and the eldest was now old enough to be sent to school, where, of course, tuition fees must be paid.

In the midst of his hard battle with poverty, want, and debt, a teacher was wanted for the village academy; and, as the trustees were willing that Mr. Nelson should have the place, he made up his mind to remove to the village and take charge of the school. By this means, he would be debarred from preaching at the distant church, as the income would not warrant his employing an assistant, and he must be in his school-room on Monday mornings, as well as at other times. Although he had never tried teaching before, he seemed to have a turn for it, and the academy prospered sufficiently to give him a comfortable remuneration; and, for the first time since he left the seminary, he found himself in a position where he had no debts hanging over him at the end of the year. In the mean time, however, his pulpit preparations were suffering. All day long he was engaged in the school, and, when its duties were finished, family affairs required attention, and after that he was too weary to do much in his study.

“What is the matter with our minister?” said Mr. Mason to one of his brother elders, as they left the church one Sabbath morning. “He does not preach as he used to do. He gives us the same sermons over and over again. I have heard that one, at least twice before. If he don’t do better than that, we must have somebody else. When I go to church, I like to get something for my trouble.”

“Ah, that school, that school!” replied the brother elder. “I thought as much when Mr. Nelson went to teaching. No man can do more than one thing well at a time. The preaching has been falling off whilst the school has been growing. We must speak plainly to him, and tell him that we must get some other man, if he can’t give us better sermons.”

They did speak plainly to Mr. Nelson, and to a great many more, until, before many months had rolled on, another minister was installed in Mr. Nelson’s place, and the cast-off pastor, without any call for his labours elsewhere, had given himself up wholly to teaching. Mr. Mason and his brother elders, and the congregation at large, used afterwards often to lament that their former pastor had abandoned the ministry, and become so “secular;” and, in his inmost heart, so did Mr. Nelson himself. Teaching school was not what he had spent long years in the academy, college, and seminary, and all his little substance, to prepare himself for; this was not what he had sincerely and

heartily consecrated himself to his Lord and Master for, and very sad was he when he heard that people now spoke of him as a "secular minister."

Who made Mr. Nelson a secular minister? A penurious congregation—Mr. Mason and his friends. M. L. M.

For the Young.

DROWNING THE SQUIRREL.—When I was about six years old, one morning, going to school, a ground-squirrel ran into its hole in the road before me, as they like to dig holes in some open place where they can put out their head to see if any danger is near. I thought, now I will have fine fun. As there was a stream of water just at hand, I determined to pour water into the hole till it would be full, and force the little animal up, so that I might kill it. I got a trough from beside a sugar-maple, used for catching the sweet sap, and was soon pouring the water in on the poor squirrel. I could hear it struggling to get up, and said, "Ah, my fellow, I will soon have you now."

Just then I heard a voice behind me, "Well, my boy, what have you got in there?" I turned, and saw one of my neighbours, a good old man, with long white locks, that had seen sixty winters. "Why," said I, "I have a ground-squirrel in here, and I am going to drown him out."

He said, "Jonathan, when I was a little boy, more than fifty years ago, I was engaged one day just as you are, drowning a ground-squirrel, and an old man like me came along and said to me, 'You are a little boy; now, if you were down in a narrow hole like that, and I should come along and pour water down on you to drown you, would not you think I was cruel? God made that little squirrel, and life is as sweet to it as to you; and why will you torture to death a little innocent creature that God has made?'" Said he, "I have never forgotten that, and never shall: I never have killed any harmless creature for fun since. Now, my dear boy, I want you to remember this while you live, and when tempted to kill any poor little innocent animal or bird, think of this; and mind God don't allow us to kill his pretty little creatures for fun."

More than forty years have since passed, and I never forgot what the good man said, nor have I ever killed the least animal for fun since. Now you see it is ninety years since this advice was first given, and it has not lost its influence yet. How many little creatures it has saved from being tortured to death I cannot tell, but I have no doubt a great number, and I believe my whole life has been influenced by it.

Now, I want all the dear little boys, when they read this, to keep it in mind; and, when they see pretty birds or harmless animals playing or hunting their food, not to hurt them. Your heavenly Father made them, and he never intended them to be killed for fun. I don't think, when the blessed Jesus was a little boy, he would have killed such innocent creatures for fun, and every little boy should try to be as much like Jesus as he can. The Bible says, "Blessed are the merciful, for they shall obtain mercy."—*Juv. Miss. Herald.*

Obituaries.

[For the Banner of the Covenant.]

REV. G. M. LAMB.

Mr. Editor,—To the readers of the Banner who take a personal interest in those who "work for God and good," as well as those to whom he may have been endeared by the familiar relations of life, it will be consolatory to know that in the death of the Rev. George M. Lamb the west has sustained a loss, deeply felt and not easily compensated. From the time of his ordination as pastor of the Rock Prairie Congregation, Wis., in 1850, he so identified himself with the interests of the church here, was so hopefully zealous, so untiring in effort, so cheerfully devoted to the cause to which he was consecrated, so indifferent to all inferior claims, that his ministrations could not fail of being highly successful, and securing him the confidence and Christian regard of numerous friends. Besides his stated duties, he performed much extraneous labour, in the true spirit of one who remembered that "the Lord loveth a cheerful giver." Little relaxation was indulged, and the limit of prudent exertion often exceeded.

To do with all his might what his hands found, was so characteristic, that it seemed to him the coming event cast its shadow before, as, in correspondence with intimate friends, he spoke of himself in a manner to show that he regarded his time at hand.

In his near approach, however, the Great Teacher gave no intimation. The previous Sabbath was spent as usual in preaching to his people: the last evening in the family in which he found a home, his last act leading their devotions at the domestic altar. In the morning "he was not, for God took him;" from the calm sleep of life he had passed to the sleep which knows no waking.

In a lovely grove his remains were laid, with many demonstrations of affectionate respect, by his mourning people. This is saddening to human thought: the desolate church, bereaved friends, and lonely grave-separation from kindred dust. But the true heart of faith sees a servant entered into the joy of his Lord, a reunion of parted ones dear on earth; and just reflection will lay on that fresh mound the admiring veneration the world has accorded to the homaged great ones so lately entombed. For *who among them ever "turned one sinner from the error of his way, or saved a soul from death?"*

With such consolations, a mother, father, brother, friend, will not repine that their tears may not fall on the spot where rest the sacred ashes. Spring, with fragrant wild-flowers, will enwrap the sod, and June prairie breezes shall find voice among the trees which enshadow it.

The church will not despond because the Master called for him, leaving an unfinished work on the whitened field. They will pray that the Lord of the harvest will send forth other labourers to bind the golden sheaves and bear them home, and doubtless He will turn their mourning into joy. He has promised to "comfort the waste places of Zion, . . . thanksgiving and the voice of melody shall be found therein."

[For the Banner of the Covenant.]

MRS. NANCY MILBURN.

Died, in Princeton, Ind., on the 30th of December, 1852, *Mrs. Nancy Milburn*, widow of Mr. Robt. Milburn, in the 62d year of her age. She was born in Chester county, South Carolina, April 7th, 1791, and was married to Mr. Robert Milburn, March 3d, 1812, in Gibson county, Ind., to which, some time previously, she had removed with her father's family. Five years and one day she survived her husband, and then, as he was, she was gathered to her people.

The disease by which she was first attacked was a combination of pleurisy and pneumonia, which in its progress developed disease of the heart, to which she had been formerly subject. Such was the violence and rapid progress of the disease that she sank under it the sixth day after being attacked; and after the second day lengthened conversation with her on any subject was impossible. Her mind, however, at one time, on the Wednesday morning preceding her death, being called to the subject of her preparation for her change, she referred to God's everlasting covenant as made with her in Christ as all her salvation and all her desire, and affirmed her hope to be in Christ alone. At the same time she exhorted her children, some of whom were at the time standing round her bed, not to put off their preparation for death, and to make sure of the one thing needful.

However pleasant it might have been to her friends to have heard from her lips the confession of her faith and her hope of passing through the valley and shadow of death, they need it not to assure them that she has fallen asleep in Christ. In the fall of 1813, together with her mother, and at the first communion dispensed by Rev. John Kell, in Gibson county, Ind., by profession of her faith she connected herself with the Reformed Presbyterian church—took the cup of salvation, and called upon the name of the Lord. The first sacrament referred to was dispensed in her father's house, about a mile from where the town of Princeton now stands. Since that time, a period of nearly forty years, she has been a consistent member of the church, adorning the doctrine of God her Saviour, and a mother in Israel. She was a woman of a retiring disposition, and a keeper at home; but she lived a life of faith upon the Son of God, who loved her and washed her from her sins in his own blood. Her end having come, as she lived in faith, so she died in faith, and death was to her gain. "Blessed are the dead which die in the Lord from henceforth: yea, saith the Spirit, that they may rest from their labours, and their works do follow them."

Missionary Intelligence.

EXTRACT OF A LETTER FROM REV. J. R. CAMPBELL.

Mission House, Saharanpur, Sept. 23d, 1852.

REVEREND AND VERY DEAR BROTHER:—

My last letter to you was dated on the 15th July. Since then I have been labouring here in the enjoyment of uninterrupted good health. Indeed I may mention that there has not been a case of fever on the mission premises of any importance during the present year, and that this station is remarkably healthy, while some other stations that were formerly more healthy, are now suffering considerably. The sickly season is nearly over. In a fortnight or three weeks more, the cold weather will be commencing. My family, now on the hills, will then be preparing to return, and the station, or at least the mission premises, will look more lively. I am happy to say our schools continue to be well attended for this season of the year. Both departments number about one hundred pupils in daily attendance. They will greatly increase when the weather becomes cool. I have a class in the Hindustani school in the city, of fourteen boys, almost young men, with whom I spend about an hour every morning on a chapter of the New Testament. I follow the same plan I pursued in the Sabbath school class in your church. After the reading of every section or paragraph the books are closed, and then I ask any one or another to recite the facts read. This makes them attentive when reading, and fixes the truths in their memories. I explain all difficulties, and take every occasion to show them how our scriptures differ from the shasters or the Qurân, and apply the truth to their hearts as closely as possible. The class is much delighted with this exercise, and it is considered a privilege to be admitted to it. How different this from former times, when no efforts on our part could induce any to read the scriptures in a class in the school. These youth, even should they not be converted to Christianity, lose their prejudices; when men, they will attend our Hindustani preaching, and gladly send their children to our schools. Thus the gospel is silently working its way through a mass of ignorance and superstition, and will finally be successful.

I have now to tell you what will I am sure give you much pleasure. Week before last, Mr. Woodside, who appears already greatly improved in health, made a run down here for a few days, and we took the opportunity of holding a number of interesting meetings, and celebrating the Lord's Supper on the Sabbath. We had first our usual monthly missionary meeting, at which we hear the Journals of our native assistants, and make statements of our personal labours for the past month, and then attend to such business of a public nature as may require consultation. The transactions at these meetings are all recorded. We then held a meeting of session, and restored Gilbert M'Master to the church, he having given evidence of penitence for the fault for which he had been suspended from the church some two years ago at Lodiana. Then John B. Dales and George H. Stuart appeared before us, praying to be admitted to the church by baptism. They had been candidates for baptism for nearly a year past, and their conduct having been quite satisfactory, they were carefully examined both as to their knowledge and Christian experience, and the session being not only pleased, but delighted with what they heard, they were both received: their baptism appointed to take place on the Sabbath. The next day we had two meetings of Presbytery, when the students,

Theodore Wylie, John N. McLeod, and Gilbert McMaster,—names which bring up pleasing associations—each read two essays, one on Theology and one on a period of Church History. They were fully sustained as excellent specimens of improvement. For want of time, their examination on portions of scripture previously appointed, as well as on the subjects in Theology and Church History, to which their attention has been directed since last meeting, were postponed until the next meeting of Presbytery in January. Poor Samuel B. Wylie, who, until three months ago, always met with the class, is now so low in consumption that he was not able to be present. Mr. Caldwell meets the class in Church History several times a week, and I meet them for the study of Theology twice every week. The text book we use is Fisher's Catechism, in Hindustani. Their knowledge on the leading doctrines of Christianity, its evidences, and of Scripture generally, would compare favourably with students in Christian lands. Theodore is the most thorough scholar, and substantial man. It is likely he will soon be licensed, and ordained as co-pastor of the native church. We wish gradually to establish a native ministry, and to put it into practical operation. Their essays being written in Hindustani and in the Persian characters, you would not understand them, otherwise I would send them to you. I may however get them to translate them into English, the first leisure they have, that you may get an idea of their thoughts on the subjects discussed. Formerly we have been accustomed to perform the native baptisms after the Hindustani services in the morning, but supposing that our English audience would be interested in the ceremony, and unite their prayers for a blessing on the young candidates, the baptism was performed at the close of the English service in the afternoon. The magistrate and revenue collector of the station, and his lady, the doctor, an officer of the engineers, and several other gentlemen, &c., were present, and they expressed themselves afterwards much impressed with the simplicity and solemnity of the service. At the same time also, two children of native Christians were offered in baptism, so that you see our increase now begins to arise from the native church, as well as from the heathen world. With Dales and Stuart I am very much pleased. They are very respectful, and anxious to learn, and will, I trust, make useful men by and by. They are now writing communications to their benefactors, which I will transmit by another mail in a few days. On the evening of Sabbath, the 12th, though Mr. Kay, Mr. Woodside and Mrs. Campbell, and several others who are members, were absent, we sat down to the Lord's table, eighteen in number, and enjoyed, I hope, His gracious presence in our midst. Of these, nine were natives from the heathen world, and four were East Indians. You will recollect also that several natives who were formerly members of the church, are now labouring at other stations, and are useful to the mission. We hope, by the blessing of God, the future will be still more encouraging, though, for some time yet, we may expect it to progress slowly, at least in appearance. Much is being done to prepare the way of the Lord, that does not appear in actual conversions. A man's progress on a new plantation in the far West is not to be measured by the actual amount of his harvest during the first few years. You must take into the account the number of trees he has deadened which are going to decay—the amount of logs he has rolled, and consumed to ashes, the quantity of fence he has erected, and the various implements he has manufactured, &c., &c. So, my dear brother, in this *dense jungle*, where we commenced our labours sixteen years ago, we

have had much to do beside reaping and carrying home the sheaves with joy. We have had to grub out the annoying underwood, to break up the fallow ground, and to work with the hoe, where we could not plough, and often we have gone forth with tears to cast the seed into the ground, feeling almost certain that the greater part of it would be choked and scorched, or take no root at all, and bear no fruit!—Still, the Lord, from time to time, has been giving us some tokens of his approbation, and some seals to our ministry, and those too not common, but men who are educated and likely to become burning lights, and centres of influences when we are in our graves. We feel assured that this is the Lord's work, and that in due time he will convert this wilderness into a fruitful field, and make it like "the garden of the Lord." The means we are employing are of his appointment, and "though the blessing tarry, we must wait for it, knowing that it will *surely* come and not tarry."

I remain as ever, dear brother,

Yours in our dear Lord Jesus.

J. R. CAMPBELL.

RELIGIOUS INTELLIGENCE.

Chili.—We are glad to learn, by a communication in the "American and Foreign Christian Union," that the subject of religious toleration is becoming warmly discussed in this republic. The oppressive claims of the Roman Catholic priesthood are indignantly denounced, and the Scriptures are obtaining some circulation. One bookseller, it is stated, recently sold several hundred copies of the Bible, and a considerable number have been disposed of for Peru. There is a cheering prospect that the way is now open to carry the pure gospel into most of the South American states.

Italy and the Waldenses.—We find in the American and Foreign Christian Union an interesting letter from the Waldensian "Table" to the Rev. Dr. Baird, from which we make the following extracts :

"The political condition of Tuscany does not any longer permit evangelists to labour there freely and openly. A young man, a candidate for the sacred ministry, while studying the language, employs himself with prudence in giving instruction and edification to the numerous Christians who reside within Florence.

"We know nothing with certainty concerning the other parts of Italy, where, without doubt, the Word of Life, so extensively distributed during the last few years, works silently, and will bring forth blessed fruits. Proud Genoa is agitated in learning that in her very bosom *heresy* lifts up her head; that meetings, constantly becoming more numerous, are held for the purpose of reading and explaining the Word of God.

"In the province of Chiavare, one family, consisting of thirty-three members, has announced its decision to come out from the Church of Rome, and its desire to unite itself with the Evangelical Church, as they were in reality already members of it; and requested to have instruction and direction given them.

"At Casale, a little evangelical congregation meets regularly under the direction of the advocate Rocchietti, who was imprisoned last year for the cause of truth.

"It is in an especial manner at Turin that the LORD has been pleased to give success. Brother Meille has been settled there since the month of November, 1850, and has charge of a regular service in Italian, as well as preaching the gospel to the Italians at Milan. After a few months, the private meetings began to be attended by the natives, belonging principally to the working

classes, who could generally be distinguished by their serious attention and their uncommon docility. The number of hearers at the public service continued to increase. Soon a few of those persons who were most advanced in the knowledge of the gospel requested formally to be received into the Waldensian Church, considered by the Italians as the true national Christian Church. The work increased rapidly. A single labourer could no longer suffice. Another was accordingly added to this field in the spring of 1851, in the person of the Rev. Mr. Geymonat. Later still, the Table* placed at Turin a converted Italian, in the capacity of schoolmaster for the Italians. For, as a large number of Piedmontese families had united themselves to us, it was necessary to furnish them with schools for the instruction of their children driven from the Roman Catholic schools. The little flock had taken the dimensions of a large congregation, presided over by two ministers, Rev. Dr. De Sanctis and Mr. Meille.

"About fifty new inquirers wish to be admitted to the holy communion on next Christmas. The chapel will soon be too small to accommodate the crowd which throng to hear preaching in Italian, and we look forward with our most earnest wishes to the time, still too far distant, when the new church at Turin will be completed and consecrated to the Lord. That can scarcely take place before the autumn of 1853, and that, too, on condition that we raise between this time and that the sum of fifty or sixty thousand francs, which are still wanting.

"Pignerol requires a place of worship. Genoa, if the congregation should become large, will before long require a school and a chapel or church.

"At different times, and from different quarters, we have heard the wish expressed, that a mission similar to the one which the Moderator made so successfully last year on the Continent, and especially in Great Britain, should be made to the United States of North America, and the confidence that it would be crowned with full success. Do you think that a delegate from the churches of the Waldenses would be likely to meet in your country with a kind reception, and efficient aid to help the various objects we have named?"

How gratifying would it be if a representative of the Waldensian churches would visit this country. We are sure that he would receive a most encouraging welcome, and not only obtain immediate and future pecuniary aid, but do much to confirm the attachment of American churches to the pure gospel, which the Waldenses have so long and so nobly maintained.

INTERESTING FROM MADAGASCAR.—Letters are published in the Cape Town Advertiser of Nov. 6, from which it appears that the ports of Madagascar are again to be opened to the commerce of the world and for the welcome of the missionaries. The letters are written by Rev. Mr. Le Brun, from Port Louis, the substance of which is that the death of the prime minister Raingharo had taken place, and the young prince was reigning jointly with his mother, who was anxious to make a treaty with the British. The Queen had given permission for all her subjects who had left the country to return. The missionaries were in much fear lest the French should salute the new flag first, and great desire is expressed that the British should take advantage of the good wishes of the new government.

(From the Foreign Missionary.)

MISSIONS TO THE CHINESE.—We have received, since our last issue, a letter from the Rev. A. P. Happer, Canton, October 28, from which we are glad to learn that his eyes were much better, and that he was able to resume preaching. We have also received a letter from the Rev. W. Speer, San Francisco, November 30, from

* Our readers will bear in mind that the "Table" of the Waldenses is the "Commission" or *Committee ad interim*, of this Synod, and acts for the Synod when it is not in session.

which we learn that the prospects of this Mission are still quite encouraging. The Chinese have not erected any temples to idols. A man of considerable influence among them, as the head of a company, who would probably have been hostile to the Mission, has been obliged to return to China on account of his health, and his successor is a young man of fine abilities and promise, who was educated in one of the Mission Schools in his own country. Another young man, educated in the same way, and one from whom much may be expected, is spoken of as "touched by the Spirit of grace, and feeling deeply on the subject of his own salvation." Mr. Speer had heard of thirteen others, who had been scholars in the Missionary Schools in Canton Province. His visits to the sick Chinese in the hospital were gratefully received. The question of the location of the Mission was still under consideration.

SIAM.—Our letters from Bangkok are dated September 14th and 28th. We regret to learn that the health of Mr. Burn was far from being good. He has never fully recovered from the serious illness of last year, and was subject to fever returning frequently. A change of climate would probably become necessary. The brethren were laying their plans to set on foot one or two schools; regarding them, however, somewhat as an experiment.

FRANCE.—A correspondent writes under date of Dec. 7, 1852, as follows:—"The change which has taken place in the form of French Government has not yet affected, either favourably or unfavourably, our missionary work in France: it is certain that we enjoyed much less freedom under the Republican Government than we did under Louis Philippe."

ROMANISM.

We select the following paragraphs, in regard to the present aspect of Romanism in this land, from the "American and Foreign Christian Union." The society bearing the same name by which this interesting periodical is published, is engaged with great zeal and efficiency in endeavouring to resist the tide of desolation which is spreading over our country. We hope it will receive the support from the patriot and the Christian which it deserves.

How wonderfully has Roman Catholicism increased! It has increased, *apparently*, as if no hinderance had been in its way.—Of the population in the city of New York 200,000 are declared to be Romanists.—New Haven, Providence, Newport, Boston, Worcester, Lowell, and many other places of New England show a large Roman Catholic population. Even in the rural districts the face of society in New England is rapidly undergoing a change. Strangers are there, and chapels are rising in every direction, where the forms of a hostile religion are observed and its doctrines are inculcated.

And in the other states of the Union the same thing obtains in the cities, and towns, and country places. Not less than *three millions* of Roman Catholics are now in the land. They have increased with alarming rapidity. In 1790 there were but about forty priests of their denomination in the country. Had they increased only in proportion as the entire population increased, there would now be 320 of them. But while the population has increased eight-fold, they have increased thirty-four fold. They have now 1,385 priests, besides 421 clerical students. *Their means of aggression are large.* They have 1,411 so-called churches, 17 colleges, 29 ecclesiastical and 91 female seminaries, besides various schools and orphan asylums. They have 14 periodicals, German, French, and English, devoted to the propagation of their system, and the increase of their interests.

Until lately the odious features of Romanism, both in regard to doctrine and practice, were studiously concealed; but increase of numbers, and *incredulousness and apathy* on the part of Americans, have led to a partial throwing off of the disguise; and the system is therefore seen here, as every where else, to be the same intolerant, profane, and wicked system—the unrelenting enemy of the gospel and the best interests of man.

Its blasphemous and IDOLATROUS character is exhibited in the proclamation of the Virgin Mary as the Patroness of the United States, and in ascribing to her agency the prosperity of religion in this land.

The Circular Letter issued by the National Council held in Baltimore in May last, says: "In July, 1847, His Holiness, Pope Pius IX. granted to the prayers of the Council of Baltimore, that the blessed Virgin Mary, of Immaculate Conception, should be the Special Patroness of the United States. *

* * * * Let us, to excite our gratitude and love to her, in this month, devoted specially to her service, recount a little of the advancement that religion has made under her auspices during these five years," &c.

What more idolatrous and offensive to God, can be found in Pagan lands among the heathen tribes than this? But this is Romanism in part; and if it were fully revealed, it would be seen to be, in its *essential elements*, the patron of idolatry and of every form of sin; and, if unrestrained, would fill the land with saints and saintesses, and make them objects of religious worship.

In respect to *Religious Freedom*, should it gain the power to dictate to the inhabitants of this country, what may be expected may be learned from the following extract from the Rambler, a Roman Catholic newspaper, viz.:

"Religious liberty, in the sense of a liberty possessed by every man to choose his own religion, is one of the most wicked delusions ever foisted upon this age by the father of all deceit. The *very name of liberty*—except in the use of a permission to do certain definite acts—ought to be banished from the domain of religion. . . . It is neither more nor less than falsehood. No man has a right to choose his religion. . . . None but an atheist can uphold the principles of religious liberty. . . . Shall I therefore fall in with this abominable delusion? Shall I foster that *damnable doctrine*, that Socinianism, and Calvinism, and Anglicanism, and Judaism are not every one of them mortal sins, *like murder and adultery*? Shall I hold out hopes to my erring protestant brother, that I will not meddle with his creed if he will not meddle with mine? Shall I tempt him to forget that he has no more rights to his religious views *than he has to my purse, to my house, or to my life blood*? No; *Catholicism is the most intolerant of all creeds*. It is intolerance itself, for it is truth itself. We might as rationally maintain that a sane man has a right to believe that two and two do not make four, as this theory of religious liberty. Its impiety is only equalled by its absurdity."

Views similar to these are sent forth almost every week by The Shepherd of the Valley, a Roman Catholic paper, published in Saint Louis; and the Freeman's Journal, (Archbishop Hughes' organ) in New York, respecting this statement says, "We willingly endorse every word of it." This is, no doubt, honest. Let Romanism prevail, and the liberties of this country will have come to an end.

Editorial.

SENATOR SUMNER'S SPEECH ON SLAVERY.

We conclude, in our present Number, this able discussion of the Fugitive Slave Law, and the relation of the Federal Government to the whole subject of Slavery. Although its length renders it rather unsuitable for publication in the Banner, yet we have felt desirous to lay the whole of it before our readers. The noble sentiments it expresses with so much eloquence will meet with a response in the hearts of all true Reformed Presbyterians, who will rejoice to find the principles which their church has maintained for so many years, asserted on the floor of the highest deliberative political body in the land. We have been glad to hear that this discussion has already done good

in counteracting the superficial and sophistical views of those who denounce the Constitution as atheistical, and refuse to have any connexion with the administration of the government. Taking the same general views as those which were enunciated at the time our church was divided, this speech may serve to confirm the correctness of the ground which was then taken, and its circulation among our people will have a tendency to strengthen them in the position our church occupies on this subject, and to enable them to confute the arguments by which our proselyting *pro re nata* brethren assail the views which we maintain.

RECENT INTELLIGENCE FROM INDIA.

The last mail from India has brought letters from our missionary brethren dated the 4th and 7th of December. They announce the death of Samuel B. Wylie, one of the most useful of the native assistants. It will be pleasing to learn that there is the most consolatory evidence that he has gone to be with CHRIST. How happy the meeting in the other world of the father in Israel, and of the youthful convert from Heathenism, both saved by the same precious blood, and both uniting in the same song of praise to Him who loved them and gave himself for them. In a future number, we hope to publish a more extended notice of our departed brother, with some extracts from his letters to friends in this country. Mr. Woodside's health was much better, and the rest of the missionaries were well. The Annual Report of the station accompanied these letters, and all will be published as soon as possible.

REV. MR. MILNE.

Many of our readers may recollect the account, given a few years ago by the delegation of the Free Church of Scotland, of a congregation at Canonbie which was obliged to worship on the highway in the most inclement weather, in consequence of the refusal of the proprietor of the soil to give a site for a church. After suffering great hardships for about eight years, during most of which time they were unable to obtain any other shelter than a canvass tent erected in a gravel pit, they were allowed the ground necessary for a church edifice. Their pastor, Rev. Mr. Milne, having understood that the American public sympathized with his people, resolved to visit this country to obtain funds to erect a comfortable place of worship. Mr. Milne has preached in a number of churches in this city and in New York with great acceptance, and not only has obtained much assistance for his congregation, but has communicated rich spiritual gifts to those who have attended upon his ministrations. If he should meet with any of our readers, we hope he will receive their kindest attention and aid.

REV. ROBERT PATTERSON.

It will be gratifying to our readers to learn that Mr. Patterson, who has been so energetically and so successfully engaged in visiting the Western churches as agent of the Board of Missions, has returned to this city. Mr. P. has been "in labours most abundant," and we have reason to believe that he has not "spent his strength for naught."

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